

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAREFREE PARK CORPORATION, AMIN
NABHAN and JAMILE NABHAN,

Plaintiffs,

v.

ADIB NABHAN,

Defendant.

Civil Action No. 2003-CV-12426 RCL

**PLAINTIFFS' MOTION FOR A NEW TRIAL ON THE ISSUE OF WHETHER
PLAINTIFFS' CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS**

Pursuant to Fed. R. Civ. P. 59, Plaintiffs Carefree Park Corporation ("Carefree Park"), Amin Nabhan ("Amin") and Jamile Nabhan ("Jamilé") (collectively, "Plaintiffs") hereby move for a new trial on the single issue of whether their claims for breach of fiduciary duty against defendant Adib Nabhan ("Adib") are barred by the applicable statute of limitations. A new trial is warranted because: 1) the Court improperly instructed the jury at the original trial of this matter that knowledge of Adib's breach on the part of the Plaintiffs' accountant was sufficient to start the statute of limitations running; and 2) even if the jury instruction had been correct, the evidence presented at trial with regard to the statute of limitations was wholly insufficient to

support the jury's verdict. In further support of their motion, Plaintiffs rely on their memorandum of law submitted herewith.

CAREFREE PARK CORPORATION,
AMIN NABHAN and JAMILE NABHAN,

By their attorneys,

/s/ Robert L. Kirby, Jr.

Robert L. Kirby, Jr. (BBO #550538)
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Dated: March 31, 2006

LOCAL RULE 7.1(A)(2) CERTIFICATE

Undersigned counsel hereby certifies that he has conferred with opposing counsel in an effort to resolve or narrow the issues raised by this motion.

/s/ Robert L. Kirby, Jr.

Robert L. Kirby, Jr. (BBO #550538)
Gordon M. Jones, III (BBO #549016)
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Boston, MA 02110-2131
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Dated: March 31, 2006

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party by first class mail or electronically on March 31, 2006.

/s/ Robert L. Kirby, Jr.

Robert L. Kirby, Jr.